

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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HARVEY McDANIELS,

Case No. 2:15-cv-00251-MMD-PAL

Plaintiff,

v.

**REPORT OF FINDINGS AND
RECOMMENDATION**

STEVEN WOLFSON, et al.,

Defendants.

This matter is before the Court on Plaintiff Harvey McDaniels' failure to comply with the Court's Order (Dkt. #4). This proceeding was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. Plaintiff is a prisoner proceeding in this action *pro se* who filed an Application to Proceed *In Forma Pauperis* and Complaint (Dkt. #1) on February 11, 2015. On April 29, 2015, the Court entered an order (Dkt. #4) approving Plaintiff's request to proceed *in forma pauperis* and requiring Plaintiff to pay an initial partial filing fee of \$57.21, pursuant to 28 U.S.C. § 1915(b)(1) on or before May 29, 2015. The Court instructed that Plaintiff's Complaint would be screened, pursuant to 28 U.S.C. § 1915A, after he paid the initial partial filing fee. *Id.* Plaintiff has not paid the initial partial filing fee, requested an extension of time, or taken any other action to prosecute this case. Plaintiff was warned that a failure to pay the initial installment may result in a recommendation to the District Judge that this case be dismissed.

Plaintiff sent a letter to the Clerk of Court requesting that his application to proceed in forma pauperis and complaint be withdrawn on May 3, 2015. Pursuant to Rule 7 of the Federal Rules of Civil Procedure, the Court entered a Minute Order (Dkt. #5) advising Plaintiff that a document requesting a court order must be styled a motion and the letters would be disregarded.

1 However, to avoid future motion practice, as it is clear Plaintiff wishes withdraw his complaint
2 and application, the Court will recommend that his request be granted and the case dismissed

3 **IT IS RECOMMENDED** that Plaintiff's request to withdraw his Complaint and
4 application to proceed *in forma pauperis* be GRANTED and the action be DISMISSED.

5 **IT IS FURTHER RECOMMENDED** that the Clerk of the Court enter judgment
6 accordingly.

7 Dated this 9th day of June, 2015.

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10 PEGGY A. LEEN
11 UNITED STATES MAGISTRATE JUDGE

12 **NOTICE**

13 These findings and recommendations are submitted to the United States District Judge
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
15 after being served with these findings and recommendations, any party may file written
16 objections with the court. Pursuant to Local Rule of Practice (LR) IB 3-2(a), any party wishing
17 to object to the findings and recommendations of a magistrate judge shall file and serve *specific*
18 *written objections* together with points and authorities in support of those objections, within
19 fourteen days of the date of service of the findings and recommendations. The document should
20 be captioned "Objections to Magistrate Judge's Findings and Recommendations." The parties
21 are advised that failure to file objections within the specified time may waive the right to appeal
22 the District Court's Order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). The points and
23 authorities filed in support of the specific written objections are subject to the page limitations
24 found in LR 7-4.
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